

# WAR HAZARDS COMPENSATION ACT

[PUBLIC—No. 784—77TH CONGRESS, PASSED DECEMBER 2, 1942,  
AS AMENDED]

[S. 2412]

An Act To provide compensation for the injury, disability, death, or enemy detention of employees of contractors with the United States, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## TITLE I—COMPENSATION FOR INJURY, DEATH, OR DETENTION OF EMPLOYEES OF CONTRACTORS WITH THE UNITED STATES OUTSIDE THE UNITED STATES

### SECTION 101. INJURY OR DEATH: DETENTION: LIMITATION OF BENEFITS: EXCLUSION

#### (a) Injury or death.

In case of injury or death resulting from injury—

- (1) to any person employed by a contractor with the United States, if such person is an employee specified in the Act of August 16, 1941 (Defense Base Act), as amended, and no compensation is payable with respect to such injury or death under such Act; or
- (2) to any person engaged by the United States under a contract for his personal services outside the continental United States; or
- (3) to any person employed outside the continental United States as a civilian employee paid from nonappropriated funds administered by the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Ship's Store Ashore, Navy exchanges, Marine Corps exchanges, officers' and noncommissioned officers' open messes, enlisted men's clubs, service clubs, special service activities, or any other instrumentality of the United States under the jurisdiction of the Department of Defense and conducted for the mental, physical, and morale improvement of personnel of the Department of Defense and their dependents; or
- (4) to any person who is an employee specified in section 1(a)(5) of the Defense Base Act, as amended, if no compensation is payable with respect to such injury or death under such Act, or to any person engaged under a contract for his personal services outside the United States approved and financed by the United States under

the Mutual Security Act of 1954, as amended (other than title II of chapter II thereof unless the Secretary of Labor, upon the recommendation of the head of any department or other agency of the United States Government, determines a contract financed under a successor provision of any successor Act should be covered by this section): *Provided*, That in cases where the United States is not a formal party to contracts approved and financed under the Mutual Security Act of 1954, as amended, the Secretary, upon the recommendation of the head of any department or agency of the United States, may, in the exercise of his discretion, waive the application of the provisions of this subparagraph with respect to any such contracts, subcontracts, or subordinate contracts, work location under such contracts, subcontracts, or subordinate contracts, or classification of employees; or

(5) to any person employed or otherwise engaged for personal services outside the continental United States by an American employer providing welfare or similar services for the benefit of the Armed Forces pursuant to appropriate authorization by the Secretary of Defense;

and such injury proximately results from a war-risk hazard, whether or not such person then actually was engaged in the course of his employment, the provisions of the Act entitled "Federal Employees' Compensation Act", approved September 7, 1916 (5 U.S.C., ch. 15), as amended, and as modified by this Act, shall apply with respect thereto in the same manner and to the same extent as if the person so employed were a civil employee of the United States and were injured while in the performance of his duty, and any compensation found to be due shall be paid from the compensation fund established pursuant to section 35 of said Federal Employees' Compensation Act, as amended. This subsection shall not be construed to include any person who would otherwise come within the purview of such Federal Employees' Compensation Act, as amended.

(b) Detention.

(1) Any person specified in subsection (a) of this section who—

(A) is found to be missing from his place of employment, whether or not such person then actually was engaged in the course of his employment, under circumstances supporting an inference that his absence is due to the belligerent action of a hostile force or person, or

(B) is known to have been taken by a hostile force or person as a prisoner, hostage, or otherwise, or

(C) is not returned to his home or to the place where employed by reason of the failure of the United States or its contractor to furnish transportation, until such time as he is returned to his home, to the place of his employment, or is able to be returned to the jurisdiction of the United States, shall, under such regulations as the Secretary may prescribe, be regarded solely for the purposes of this subsection as totally disabled, and the same benefits as are provided for such disability under this Act shall be credited to his account and be payable to him for the period of such absence or until his death is in fact established or can be legally presumed to have occurred: *Provided*, That if such person has dependents residing in the United States or its Territories or possessions (including the United States Naval Operating Base, Guantanamo Bay, Cuba; and the Canal Zone), the Secretary during the period of such absence may disburse a part of such compensation, accruing for such total disability, to such dependents, which shall be equal to the monthly benefits otherwise payable for death under this Act, and the balance of such compensation for total disability shall accrue and be payable to such person upon his return from such absence. Any payment made pursuant to this subsection shall not in any case be included in computing the maximum aggregate or total compensation payable for disability or death, as provided in section 102(a): *Provided further*, That no such payment to such person or his dependent, on account of such absence, shall be made during any period such person or dependent, respectively, has received, or may be entitled to receive, any other payment from the United States, either directly or indirectly, because of such absence, unless such person or dependent refunds or renounces such other benefit or payment for the period claimed.

Benefits found to be due under this subsection shall be paid from the compensation fund established pursuant to section 35 of the Federal Employees' Compensation Act, as amended: *Provided*, That the determination of dependents, dependency, and amounts of payments to dependents shall be made in the manner specified in the Federal Employees' Compensation Act: *Provided further*, That claim for such detention benefits shall be filed in accordance with and subject to the limitation provisions of such Act, as modified by section 106(c) of this Act: *And provided further*, That except in cases of fraud or willful misrepresentation, the Secretary may waive recovery of money erroneously paid under this subdivision whenever he finds that such recovery would be impracticable or would cause hardship to the beneficiary affected: *And provided further*, That where such person is found to be missing from his place of employment, whether

or not such person then actually was engaged in the course of his employment, under circumstances supporting an inference that his absence is due to the belligerent action of a hostile force or person or is known to have been taken by a hostile force or person as a prisoner, hostage, or otherwise, the amount of benefits to be credited to the account of such person under this subsection, and for the purposes of this subsection only, shall be 100 per centum of the average weekly wages of such person, except that in computing such benefits such average weekly wages (a) shall not exceed the average weekly wages paid to civilian employees of the United States in the same or most similar occupation in the area nearest to the place of employment where such person was last employed, and (b) shall not exceed the average weekly wages of such absent person at the time such absence began; and 70 per centum of such average weekly wage so determined shall be disbursed to the dependent or dependents of such persons, irrespective of the limitations of section 9 of the Longshoremen's and Harbor Workers' Compensation Act, as amended, but should there be more than one such dependent, the distribution of such 70 per centum shall be proportionate to the percentages allowed for dependents by section 9 of the Longshoremen's and Harbor Workers' Compensation Act, and if such manner of disbursement in any case would result in injustice or excessive allowance for a dependent, the Secretary may, in his discretion, modify such percentage or apportionment to meet the requirements of the case; and in such cases benefits for detention shall accrue from January 1, 1942, unless the beginning of absence occurred upon a later date in which event benefits shall accrue from such later date, and for the period of such absence shall be 100 per centum of the average weekly wages, determined as herein provided: *And provided further*, That compensation for disability under this subsection (except under allowance for scheduled losses of members or functions of the body, within the purview of section 102(a) of this Act) shall not be paid in any case in respect to any period of time during which benefits for detention may accrue under this subsection in the same case, and should a person entitled to benefits for detention also be entitled to workmen's compensation or similar benefits under any other law, agreement, or plan (except allowances for scheduled losses of members or functions of the body), where such other benefits are paid or to be paid directly or indirectly by the United States, the amount thereof accruing as to the period of absence shall be taken into account and the benefits credited to the account of the detained person reduced accordingly: *And provided further*, That where through mistake of fact, absence of proof of death, or error through lack of adequate information or otherwise, payments as for detention have in any

case been erroneously made or credited, any resulting overpayment of detention benefits (the recovery of which is not waived as otherwise provided for in this section) shall be recouped by the Secretary in such manner as he shall determine from any unpaid accruals to the account of the detained person, and if such accruals are insufficient for such purpose, then from any allowance of compensation for injury or death in the same case (whether under this Act or under any other law, agreements, or plan, if the United States pays, or is obligated to pay, such benefits, directly or indirectly), but only to the extent of the amount of such compensation benefits payable for the particular period of such overpayment, and in cases of erroneous payments of compensation for injury or death, made through mistake of fact, whether under this Act or under any other law, agreement, or plan (if the United States is obligated to pay such compensation, directly or indirectly), the Secretary is authorized to recoup from any unpaid benefits for detention, the amount of any overpayment thus arising; and any amounts recovered under this section shall be covered into such compensation fund, and for the foregoing purposes the Secretary shall have a right of lien, intervention, and recovery in any claim or proceeding for compensation.

(2) Upon application by such person, or someone on his behalf, the Secretary may, under such regulations as he may prescribe, furnish transportation or the cost thereof (including reimbursement) to any such person from the point where his release from custody by the hostile force or person is effected, to his home, the place of his employment, or other place within the jurisdiction of the United States; but no transportation, or the cost thereof, shall be furnished under this paragraph where such person is furnished such transportation, or the cost thereof, under any agreement with his employer or under any other provision of law.

(3) In the case of death of any such person, if his death occurred away from his home, the body of such person shall, in the discretion of the Secretary, and if so desired by his next of kin, near relative, or legal representative, be embalmed and transported in a hermetically sealed casket or other appropriate container to the home of such person or to such other place as may be designated by such next of kin, near relative, or legal representative. No expense shall be incurred under this paragraph by the Secretary in any case where death takes place after repatriation, unless such death proximately results from a war-risk hazard.

(4) Such benefits for detention, transportation expenses of repatriated persons, and expenses of embalming, providing sealed or other appropriate container, and transportation of the body, and attendants

(if required), as approved by the Secretary, shall be paid out of the compensation fund established under section 35 of the Federal Employees' Compensation Act, as amended.

(c) Limitation of benefits to dependents in foreign countries.

Compensation for permanent total or permanent partial disability or for death payable under this section to persons who are not citizens of the United States and who are not residents of the United States or Canada, shall be in the same amount as provided for residents; except that dependents in any foreign country shall be limited to surviving wife or husband and child or children, or if there be no surviving wife or husband or child or children, to surviving father or mother whom such person has supported, either wholly or in part, for the period of one year immediately prior to the date of the injury; and except that the Secretary, at his option, may commute all future installments of compensation to be paid to such persons by paying to them one-half of the commuted amount of such future installments of compensation as determined by the Secretary.

(d) Exclusion.

The provisions of this section shall not apply in the case of any person (1) whose residence is at or in the vicinity of the place of his employment, and (2) who is not living there solely by virtue of the exigencies of his employment, unless his injury or death resulting from injury occurs or his detention begins while in the course of his employment, or (3) who is a prisoner of war or a protected person under the Geneva Conventions of 1949 and who is detained or utilized by the United States.

#### SECTION 102. APPLICATION OF LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

(a) In the administration of the provisions of the Federal Employees' Compensation Act, as amended, with respect to cases coming within the purview of section 101 of this Act, the scale of compensation benefits and the provisions for determining the amount of compensation and the payment thereof as provided in sections 8 and 9 of the Longshoremen's and Harbor Workers' Compensation Act, approved March 4, 1927, as amended, so far as the provisions of said sections can be applied under the terms and conditions set forth therein, shall be payable in lieu of the benefits, except medical benefits, provided under the Federal Employees' Compensation Act, as amended: *Provided*, That the total compensation payable under this Act for injury or death shall in no event exceed the limitations upon compensation as fixed in section 14(m) of the Longshoremen's and Harbor Workers' Compensation Act as such section may from time

to time be amended except that the total compensation shall not be less than that provided for in the original enactment of this Act.

(b) For the purpose of computing compensation with respect to cases coming within the purview of section 101, the provisions of sections 6 and 10 of such Longshoremen's and Harbor Workers' Compensation Act shall be applicable: *Provided*, That the minimum limit on weekly compensation for disability, established by section 6(b) of the Longshoremen's and Harbor Workers' Compensation Act, and the minimum limit on the average weekly wages on which death benefits are to be computed, established by section 9(e) of such Longshoremen's and Harbor Workers' Compensation Act, shall not apply in computing compensation under this Act.

#### SECTION 103. DEFINITION

As used in this Act, the term "contractor with the United States" includes any subcontractor or subordinate subcontractor with respect to the contract of such contractor.

#### SECTION 104. REIMBURSEMENT

(a) Where any employer or his insurance carrier or compensation fund pays or is required to pay benefits—

(1) to any person or fund on account of injury or death of any person coming within the purview of this Act or sections 1-4 of the Defense Base Act, if such injury or death arose from a war-risk hazard, which are payable under any workmen's compensation law of the United States or of any State, Territory, or possession of the United States, or other jurisdiction; or

(2) to any person by reason of any agreement outstanding on December 2, 1942, made in accordance with a contract between the United States and any contractor therewith to pay benefits with respect to the death of any employee of such contractor occurring under circumstances not entitling such person to benefits under any workmen's compensation law or to pay benefits with respect to the failure of the United States or its contractor to furnish transportation upon the completion of the employment of any employee of such contractor to his home or to the place where he was employed; or

(3) to any person by reason of an agreement approved or authorized by the United States under which a contractor with the United States has agreed to pay workmen's compensation benefits or benefits in the nature of workmen's compensation benefits to an injured employee or his dependents on account of detention by a hostile force or person or on account of injury or death arising from a war-risk hazard; such employer, carrier, or fund shall be entitled to be reimbursed

for all benefits so paid or payable, including funeral and burial expenses, medical, hospital, or other similar costs for treatment and care; and reasonable and necessary claims expense in connection therewith. Claim for such reimbursement shall be filed with the Secretary under regulations promulgated by him, and such claims, or such part thereof as may be allowed by the Secretary, shall be paid from the compensation fund established under section 35 of the Federal Employees' Compensation Act, as amended. The Secretary may, under such regulations as he shall prescribe, pay such benefits, as they accrue and in lieu of reimbursement, directly to any person entitled thereto, and the insolvency of such employer, insurance carrier, or compensation fund shall not affect the right of the beneficiaries of such benefits to receive the compensation directly from the said compensation fund established under section 35 of the Federal Employees' Compensation Act, as amended. The Secretary may also, under such regulations as he shall prescribe, use any private facilities, or such Government facilities as may be available, for the treatment or care of any person entitled thereto.

(b) No reimbursement shall be made under this Act in any case in which the Secretary finds that the benefits paid or payable were on account of injury, detention, or death which arose from a war-risk hazard for which a premium (which included an additional charge or loading for such hazard) was charged.

(c) The provisions of this section shall not apply with respect to benefits on account of any injury or death occurring within any State.

#### SECTION 105. RECEIPT OF WORKMEN'S COMPENSATION BENEFITS

(a) No benefits shall be paid or furnished under the provisions of this Act for injury or death to any person who recovers or receives workmen's compensation benefits for the same injury or death under any other law of the United States, or under the law of any State, Territory, possession, foreign country, or other jurisdiction, or benefits in the nature of workmen's compensation benefits payable under an agreement approved or authorized by the United States pursuant to which a contractor with the United States has undertaken to provide such benefits.

(b) The Secretary shall have a lien and a right of recovery, to the extent of any payments made under this Act on account of injury or death, against any compensation payable under any other workmen's compensation law on account of the same injury or death; and any amounts recovered under this subsection shall be covered into the fund established under section 35 of the Federal Employees' Compensation Act, as amended.



(c) Where any person specified in section 101(a), or the dependent, beneficiary, or allottee of such person, receives or claims wages, payments in lieu of wages, insurance benefits for disability or loss of life (other than workmen's compensation benefits), and the cost of such wages, payments, or benefits is provided in whole or in part by the United States, the amount of such wages, payments or benefits shall be credited, in such manner as the Secretary shall determine, against any payments to which any such person is entitled under this Act.

Where any person specified in section 101(a), or any dependent, beneficiary, or allottee of such person, or the legal representative or estate of any such entities after having obtained benefits under this Act, seeks through any proceeding, claim, or otherwise, brought or maintained against the employer, the United States, or other person, to recover wages, payments in lieu of wages, or any sum claimed as for services rendered, or for failure to furnish transportation, or for liquidated or unliquidated damages under the employment contract, or any other benefit, and the right in respect thereto is alleged to have accrued during or as to any period of time in respect of which payments under this Act in such case have been made, and in like cases where a recovery is made or allowed, the Secretary shall have the right of intervention and a lien and right of recovery to the extent of any payments paid and payable under this Act in such case, provided the cost of such wages, payments in lieu of wages, or other such right, may be directly or indirectly paid by the United States; and any amounts recovered under this subsection shall be covered into the fund established under section 35 of the Federal Employees' Compensation Act.

(d) Where a national of a foreign government is entitled to benefits on account of injury or death resulting from a war-risk hazard, under the laws of his native country or any other foreign country, the benefits of this Act shall not apply.

(e) If at the time a person sustains an injury coming within the purview of this Act said person is receiving workmen's compensation benefits on account of a prior accident or disease, said person shall not be entitled to any benefits under this Act during the period covered by such workmen's compensation benefits unless the injury from a war-risk hazard increases his disability, and then only to the extent such disability has been so increased.

#### SECTION 106. ADMINISTRATION

(a) The provisions of this Act shall be administered by the Secretary of Labor, and the Secretary is authorized to make rules and regulations for the administration thereof and to contract with insur-

ance carriers for the use of the service facilities of such carriers for the purpose of facilitating administration.

(b) In administering the provisions of this Act the Secretary may enter into agreements or cooperative working arrangements with other agencies of the United States or of any State (including the District of Columbia, Hawaii, Alaska, Puerto Rico, and the Virgin Islands) or political subdivision thereof, and with other public agencies and private persons, agencies, or institutions, within and outside the United States, to utilize their services and facilities and to compensate them for such use. The Secretary may delegate to any officer or employee, or to any agency, of the United States or of any State, or of any political subdivision thereof, or Territory or possession of the United States, such of his powers and duties as he finds necessary for carrying out the purposes of this Act.

(c) The Secretary, in his discretion, may waive the limitation provisions of such Federal Employees' Compensation Act, as amended, with respect to notice of injury and filing of claims under this Act, whenever the Secretary shall find that, because of circumstances beyond the control of an injured person or his beneficiary, compliance with such provisions could not have been accomplished within the time therein specified.

#### SECTION 107. EFFECTIVE DATE

This Act shall take effect as of December 7, 1941.

### TITLE II—MISCELLANEOUS PROVISIONS

#### SECTION 201. DEFINITIONS

When used in this Act—

(a) The term "Secretary" means the Secretary of Labor.

(b) The term "war-risk hazard" means any hazard arising during a war in which the United States is engaged; during an armed conflict in which the United States is engaged, whether or not war has been declared; or during a war or armed conflict between military forces of any origin, occurring within any country in which a person covered by this Act is serving; from—

(1) the discharge of any missile (including liquids and gas) or the use of any weapon, explosive, or other noxious thing by a hostile force or person or in combating an attack or an imagined attack by a hostile force or person; or

(2) action of a hostile force or person, including rebellion or insurrection against the United States or any of its allies; or

(3) the discharge or explosion of munitions intended for use in connection with a war or armed conflict with a hostile force or per-

son as defined herein (except with respect to employees of a manufacturer, processor, or transporter of munitions during the manufacture, processing, or transporting thereof, or while stored on the premises of the manufacturer, processor, or transporter) ; or

(4) the collision of vessels in convoy or the operation of vessels or aircraft without running lights or without other customary peacetime aids to navigation ; or

(5) the operation of vessels or aircraft in a zone of hostilities or engaged in war activities.

(c) The term "hostile force or person" means any nation, any subject of a foreign nation, or any other person serving a foreign nation (1) engaged in a war against the United States or any of its allies, (2) engaged in armed conflict, whether or not war has been declared, against the United States or any of its allies, or (3) engaged in a war or armed conflict between military forces of any origin in any country in which a person covered by this Act is serving.

(d) The term "allies" means any nation with which the United States is engaged in a common military effort or with which the United States has entered into a common defensive military alliance.

(e) The term "war activities" includes activities directly relating to military operations.

(f) The term "continental United States" means the States and the District of Columbia.

#### SECTION 202. DISQUALIFICATION FROM BENEFITS

No person convicted in a court of competent jurisdiction of any subversive act against the United States or any of its allies, committed after the declaration by the President on May 27, 1941, of the national emergency, shall be entitled to compensation or other benefits under title I, nor shall any compensation be payable with respect to his death or detention under said title, and upon indictment or the filing of an information charging the commission of any such subversive act, all such compensation or other benefits shall be suspended and remain suspended until acquittal or withdrawal of such charge, but upon conviction thereof or upon death occurring prior to final disposition thereof, all such payments and all benefits under said title shall be forfeited and terminated. If the charge is withdrawn, or there is an acquittal, all such compensation withheld shall be paid to the person or persons entitled thereto.

#### SECTION 203. FRAUD: PENALTIES

Whoever, for the purpose of causing an increase in any payment authorized to be made under this Act, or for the purpose of causing

any payment to be made where no payment is authorized hereunder, shall knowingly make or cause to be made, or aid or abet in the making of any false statement or representation of a material fact in any application for any payment under title I, or knowingly make or cause to be made, or aid or abet in the making of any false statement, representation, affidavit, or document in connection with such an application, or claim, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

#### SECTION 204. LEGAL SERVICES

No claim for legal services or for any other services rendered in respect of a claim or award for compensation under title I of this Act to or on account of any person shall be valid unless approved by the Secretary; and any claim so approved shall, in the manner and to the extent fixed by the said Secretary, be paid out of the compensation payable to the claimant; and any person who receives any fee, other consideration, or any gratuity on account of services so rendered, unless such consideration or gratuity is so approved, or who solicits employment for another person or for himself in respect of any claim or award for compensation under title I shall be guilty of a misdemeanor and upon conviction thereof shall, for each offense, be fined not more than \$1,000 or imprisoned not more than one year, or both.

#### SECTION 205. FINALITY OF SECRETARY'S DECISIONS

The action of the Secretary in allowing or denying any payment under title I shall be final and conclusive on all questions of law and fact and not subject to review by any other official of the United States or by any court by mandamus or otherwise, and the Comptroller General is authorized and directed to allow credit in the accounts of any certifying or disbursing officer for payments in accordance with such action.

#### SECTION 206. PRESUMPTION OF DEATH OR DETENTION

A determination that an individual is dead or a determination that he has been detained by a hostile force or person may be made on the basis of evidence that he has disappeared under circumstances such as to make such death or detention appear probable.

#### SECTION 207. ASSIGNMENT OF BENEFITS; EXECUTION, LEVY, ETC., AGAINST BENEFITS

The right of any person to any benefit under title I shall not be transferable or assignable at law or in equity except to the United

States, and none of the moneys paid or payable (except money paid hereunder as reimbursement for funeral expenses or as reimbursement with respect to payments of workmen's compensation or in the nature of workmen's compensation benefits), or rights existing under such title, shall be subject to execution, levy, attachment, garnishment, or other legal process or to the operation of any bankruptcy or insolvency law.

**SECTION 208. TITLES I AND II OF THIS ACT MAY BE CITED AS THE "WAR  
HAZARDS COMPENSATION ACT"**